

BUDGET REQUEST

FISCAL YEAR 2007

JUDICIAL BUDGET OVERVIEW AND INTRODUCTION

The Judicial Branch Fiscal Year 2007 budget request is \$384 million, including general, special and federal funds. The request represents a 12.8 percent increase over FY 2006 and is 1.4 percent of the entire State budget. Last year, the Maryland Judiciary collected and remitted over \$792 million to the State and local governments.

While a point-by-point commentary on each of the Analyst's recommendations will follow later in this document, the Judiciary will next respond to specific issues raised in the budget analysis.

BUDGET ISSUES

Issue Number 1

New Judges Requested for Circuit Courts.

JUDICIARY RESPONSE:

While the Judiciary has certified to the General Assembly the need for twenty-three additional judges (7 in the Circuit Courts, 16 in the District Court), we have requested only two new judgeships: one in the Circuit Court for Baltimore City and one in the Circuit Court for Montgomery County. Both these courts have demonstrated long-standing needs for additional judicial resources to manage their respective workloads more effectively. While other circuit courts experience similar needs, their use of retired judges, judicial masters, and innovative court improvement programs mitigate the urgency of a larger request at this time.

With respect to the District Court, the general lack of space in courthouse facilities constrains any request at this time. Of particular note, however, is the need for additional judicial resources in Washington County which has experienced significant increases in its workload and has not received an additional judgeship since its inception.

Issue Number 2

New Positions Requested by the Judiciary.

JUDICIARY RESPONSE:

We strongly oppose the Analyst's recommended reductions to the Judiciary's request for additional permanent positions and the conversion of existing contractual employees.

While we will address this issue as it relates specifically to the Circuit Court Clerk Offices and the District Court within this section of our response, we will provide further argument for other Judiciary positions not within these courts as they are identified in the Analyst's recommended actions.

With respect to Circuit Court Clerk Offices, the General Assembly in 2005 only appropriated funding for new positions associated with the new judgeships that were created and for those designated for land records assignments. The Analyst has recommended that the General Assembly again fund only the requested new positions necessary to support the requested new judgeships and for the land records divisions. For over four years, Clerk Offices have received no additional position support for the functional areas of civil, criminal, family, jury and assignment. Workload within these offices cannot be measured simply by the number of case filings and terminations. Clerk Offices receive millions of case related pleadings and actions annually. A recent snapshot in the relatively small office of Calvert County revealed that they processed over 82,000 such actions in 2005. In addition, these offices are the first point of contact in the Circuit Courts for the overwhelming number of citizens seeking information and assistance. A recent survey in these offices revealed that an average of four hours per day is consumed in direct customer service both over the telephone and across the counter. Over 50 percent of staff time is spent in such activities and, as a result, diminishes productivity.

With respect to contractual conversions, the Analyst has recommended that all such conversions be denied in both the Circuit Courts and the District Court. As you are aware, it is increasingly difficult to recruit and retain employees without health and retirement benefits. As a result, the investment made to train staff in all the functional areas of these courts is diminished by this increased turnover.

Within the Circuit Courts, there were 8 requested conversions amounting to a General Fund appropriation of \$44,669 that included positions in Cecil, Montgomery, Queen Anne's, St. Mary's, Talbot and Wicomico Counties.

Within the District Court, there were 21 requested conversions involving positions in the Traffic Processing Center, Commissioners, Clerk Offices, and the Alternative Dispute Division, amounting to an additional \$283,353 appropriation. Of these 21 positions, ten are employees of the Traffic Processing Center who are among the lowest paid staff in the Judiciary. These employees processed 1,374,000 citations in FY 2005 and handled 184,500 phone inquiries during calendar year 2005. In addition to the manual keypunch function, each of the 1.3 million citations are thoroughly checked for factual errors. Within the past six months, this division has experienced a 30% turnover in its contractual positions. Converting these 10 employees to regular positions will cost the State less than \$136,000 per year, and will reduce the constant turnover thus saving training money.

In addition, there are six contractual commissioners who work full time in Districts 6, 7, and 8 and who serve as important frontline judicial officers. Other contractual

conversions include an employee who has worked for the District Court in Wicomico County for over fifteen years, and four employees of the Alternative Dispute Resolution Division. The ADR Division assists the District Court judges as well as our citizens, by arbitrating acceptable resolution to disagreements. In 2005, 1,748 cases were referred with 998 cases settled. This alleviates the courtroom caseload, freeing judges for other duties and providing citizens with an opportunity to use mediation.

Issue Number 3

Restoration of Law Clerk Salaries and Benefits.

JUDICIARY RESPONSE:

At the request of the General Assembly in 1999, the Judiciary crafted the Circuit Courts Action Plan with two primary goals: (1) improve the equitable distribution of resources between individual courts and circuits; and (2) enhance the productivity and effectiveness within courts. It built upon the assumption that neither the State nor local government should be relieved of its inherent responsibilities for the administration of justice. Rather, the Plan sought to establish and maintain substantive partnerships between all government stakeholders through fiscal cooperation and investment. The Plan attempted to strike a balance between the State and the Circuit Courts so as to ensure that these trial courts remain as responsive as possible to the needs of local constituent communities. Initially, the Judiciary proposed an incremental four-year plan to begin in FY 2001 that included Judicial Masters and Law Clerk salaries; juror fees; courthouse leasing; and courtroom security for juvenile and domestic cases.

In 2001, the General Assembly passed the funding of law clerk salaries with a one-year delayed implementation date that was delayed further by 2002 BRFA action until January 1, 2003. After six months of full State funding, further legislative action in 2003 reduced that funding level to 75 percent. The Judiciary seeks to restore full funding as was proposed in the Circuit Court Action Plan and approved by the General Assembly.

Issue Number 4

Circuit Court Clerks Leased Space.

JUDICIARY RESPONSE:

While uncodified language in the enabling legislation limited the lease payments under the Act not to exceed \$250,000 in FY 2004 and \$500,000 in FY 2005, the Judiciary sought fuller funding due to the delays encountered in the implementation of this legislation. The aforementioned limitations when applied across the State will amount to approximately \$.47 per square foot in FY 2007.

Issue Number 5

Drug Courts.

JUDICIARY RESPONSE:

Simply put, adoption of the Analyst's recommendation will initiate the dismantling of Drug Courts in Maryland. In 2006 and 2007, the following federal or State grants are scheduled to terminate:

Anne Arundel County DUI/Drug Court
Baltimore City Adult Circuit Drug Court
Baltimore City Adult District Drug Court
Baltimore County Juvenile Drug Court
Dorchester County Juvenile Drug Court
Harford County DUI/Drug Court
Howard County DUI/Drug Court
Montgomery County Adult Drug Court
Montgomery County Juvenile Drug Court
Prince George's County Adult Drug Court
Prince George's County Juvenile Drug Court

Notwithstanding any legal issues that may have arisen as a result of the budgeting and allocation of this necessary funding support, the Judiciary is motivated only by the need to continue and expand this highly successful initiative.

Maryland has experienced a significant expansion in the use of Drug Courts in the past three years. At present there are 27 operational drug courts, with 10 more in the planning phases that operate in 20 separate jurisdictions. The availability of federal funds for planning and start up operations has been crucial to the growth of these courts; however, funding for drug courts on the federal level has been cut from \$43 million to \$10 million this fiscal year, so continued reliance on these funds alone for start up operations is not feasible. Unless a funding mechanism is provided, those courts cannot continue to operate. Other jurisdictions will face an identical funding crisis in ensuing years. The very existence of drug courts in Maryland is in jeopardy unless the State provides a

coordinated mechanism to assume funding for the demonstrated needs of these programs once start up grant funding expires.

Drug courts work. They have continually been shown to have better outcomes and to be more cost effective than traditional criminal prosecution methods. A February 2006 Interim Report on the Effectiveness of Maryland's Juvenile Drug Courts, showed a 71% reduction in the number of drug court participants with new convictions compared to the 12 months prior to entering the program. It also indicated that the total cost per day for drug court participants is \$48.96 compared to what would be the next step in the continuum of juvenile services in, non-secure residential programs at \$226.93.

While this success in large measure is attributable to the active engagement of courts at the epicenter of this treatment modality, the drug court problem-solving approach is very much a collaborative effort that is heavily resource driven and support service dependent. Essential treatment, supervision, legal representation, drug and alcohol testing and court coordination are necessary for the continued success and expansion of drug courts. The paucity of these resources and support services demands that the Judiciary coordinate and integrate its drug court initiative with the efforts of local and state government.

Issue Number 6

Catonsville District Court

JUDICIARY RESPONSE:

The Judiciary strongly opposes the Analyst's recommendation to eliminate the proposed funding.

The current funds requested in the budget submission were originally intended for lease money and "fit-up" costs if the Rt. 40 option was selected. Since it was not, the requested funds will be used as MEDCO "seed" money for the Catonsville Court project. Typically, MEDCO requires 1-2 percent of a project's estimated cost in advance to secure bond counsel, handle all transactional fees, and for project initiation prior to bond sale.

The Master Plan for Baltimore County is in its final stages and is being edited and proofed before production.

The District Court and its master planner reviewed numerous options for Catonsville. The most desirable option would be the construction of a new court facility at Spring Grove. This site is owned by the Department of Health and Mental Hygiene (DHMH), which is in the process of developing its master plan. Before the Court can request design monies, DHMH must complete its master plan and determine if it will excess any land.

The Court conducted an exhaustive review of the following options before it and the master planner decided that a new facility at the Spring Grove site is the best option. Those options reviewed included:

- A. **Expansion at Existing Facility.** The master planner has concluded that the existing facility could be expanded horizontally to accommodate two to three additional courtrooms. This option offers a less than optimal facility while further exacerbating existing parking problems and forecloses opportunity for UMBC to acquire this site.
- B. **Route 40 -** The Court considered a privately-owned property located on Rt. 40. This site is unacceptable because of traffic congestion and physical access issues resulting in inconvenience to county residents.
- C. **DNR Property on Rolling Road.** This site is not a viable option because the subject property was conveyed to the State with the restriction that it remain as open space.

The Department of General Services (DGS) initially issued a Request for Proposals (RFP) in January, 2005 to locate a possible site; there was no response to this request. Subsequently, DGS performed an exhaustive search of all available land, and has recently advised the Court that there is no available surplus property in the defined area.

Catonsville is listed in the District Court's Capital Improvement Plan (CIP) request as an out-year project following Rockville, Centreville, and Cumberland which already have approved programs. Rockville and Centreville have construction documents which are 95% complete.

The existing Catonsville District Court is simply inadequate. The current 9,423 square foot facility has no space for a public records room, records/file storage, a law clerk, a judge's library/conference room, advocate service groups, or the State's Attorney. The office space for the clerks and the commissioners is inadequate. The sallyport cannot be used by local law enforcement because it is not large enough to accommodate the vehicles. The detention area is undersized and presents serious security risks. There is no space for separation of women and juvenile detainees. There is no room for internal expansion, and there is inadequate parking for the public and staff.

The District Court has reservations as to whether or not the CIP process is the most viable vehicle to adequately address the immediacy of the above described needs. The CIP process is lengthy with the average project taking 12 to 15 years from concept to construction. These reservations are further confirmed by DBM's recent failure to include District Court CIP monies in fiscal year 2007. Consequently, the District Court is interested in utilizing the services of the Maryland Economic Development Corporation (MEDCO) as an alternative to the CIP process in this instance. There would be significant time savings and potential cost savings because the building could be designed

and constructed in one third the time it would take as a CIP project. The savings could be realized in three ways:

2. Entering the design and construction market sooner reduces project escalation costs. When DBM recommended the deferral of the Rockville Courthouse, they indicated there would be a 6% escalation rate for the first year the project is deferred and a 5 % escalation rate for each year thereafter.
3. MEDCO can procure all supplies and materials as a tax-exempt state entity thus saving the project 5% on all supplies/materials. The Court would direct MEDCO to adhere to State Procurement requirements as practicable.
4. There is a substantial benefit to having all 13 judges in Baltimore County presiding over cases at the same time. Currently there are not enough courtrooms for all judges to preside simultaneously, and thus the Court is not performing at peak efficiency.

RECOMMENDED ACTIONS

Recommendation No. 1

Add budget language to make the appropriation for two circuit court judges and the related law clerk and circuit court positions contingent on the enactment of legislation.

JUDICIARY RESPONSE:

The Judiciary concurs with this recommendation.

Recommendation No. 2

Add budget bill language to make the appropriation for the restoration of judicial law clerk funding contingent upon the enactment of legislation.

JUDICIARY RESPONSE:

The Judiciary concurs with this recommendation.

Recommendation No. 3

Add budget bill language to make fund appropriated for the Judiciary's case management project contingent upon the submission of a final requirements analysis.

JUDICIARY RESPONSE:

The Judiciary concurs with this recommendation.

Recommendation No. 4

Add budget bill language to require the submission of a draft report from the Judiciary, the Department of General Services, and the Department of Budget and Management regarding the development status of a new Catonsville facility.

_____JUDICIARY RESPONSE:

The Judiciary concurs with this recommendation.

Recommendation No. 5

Deny new Public Affairs assistant position.

JUDICIARY RESPONSE:

The Judiciary strongly opposes this recommendation.

The Court Information Office has been using temporary assistance since FY 2002 to handle its administrative workload. The government relations program, new in FY 2002, added to that workload. The office has been unable to keep the function staffed because there are no benefits. At times, it has relied on agency temporary help because of the inability to find candidates to hire on a temporary basis. This position provides administrative support to the various functions in the Court Information Office: answers the phones and provides general information to callers; maintains the central files; enters data into the Access database and runs queries to create legislative reports; drafts correspondence; and arranges meetings.

Recommendation No. 6

Delete funding for jury staff.

JUDICIARY RESPONSE:

The Judiciary concurs with this recommendation.

Recommendation No. 7

Delete funding for Catonsville District Court as there are too many unknown variables at this time.

JUDICIARY RESPONSE:

The Judiciary strongly opposes the reduction in funding proposed by the Analyst and as reflected in our response to Issue No. 6.

Recommendation No. 8

Reduce allowance for telephone expense based on fiscal 2005 actual expenditures.

JUDICIARY RESPONSE:

The Judiciary concurs with this recommendation.

Recommendation No. 9

Reduce general funds for turnover expectancy to better reflect historical turnover rate.

JUDICIARY RESPONSE:

The Judiciary strongly opposes this recommendation.

The DLS turnover analysis was predicated on a vacancy report taken on December 31, 2005, and resulted in the Analyst's recommendation that the Judiciary's turnover be increased to 3 percent. While the 3 percent turnover level is acceptable for Judiciary employees, it contradicts the historical turnover calculated at 1 percent for judges and, therefore, overestimates the actual turnover amount.

Recommendation No. 10

Deny 21 contractual conversions for the District Court.

JUDICIARY RESPONSE:

The Judiciary strongly opposes this recommendation as reflected in our response to Issue No. 2.

Recommendation No. 11

Reduce travel expenses based on fiscal 2005 actual expenditures.

JUDICIARY RESPONSE:

The Judiciary concurs with this recommendation.

Recommendation No. 12

Deny four new positions and three contractual conversions in the Administrative Office of the Courts.

JUDICIARY RESPONSE:

The Judiciary concurs with this recommendation.

Recommendation No. 13

Reduce drug court funding by \$7,201,500. This reduction will leave \$926,000 in drug court funding to sustain the Judiciary's current level of drug court operations.

JUDICIARY RESPONSE:

The Judiciary strongly opposes this recommendation as reflected in our response to Issue No. 5.

Recommendation No. 14

Deny new Alternative Dispute Resolution Program Evaluations Director.

JUDICIARY RESPONSE:

The Judiciary strongly opposes this recommendation.

The Maryland Mediation and Conflict Resolution Office (MACRO) requested a new position for an Alternative Dispute Resolution (ADR) Program Evaluations Director that is a critically important position needed to effectively implement its mission to advance the appropriate use of mediation and other forms of ADR in Maryland. MACRO, which is a nationally acclaimed, award winning office, provides assistance to over 60 ADR programs per year in Maryland's courts, schools, communities and government agencies. Anecdotally, and using rough program data, we know that these programs provide great benefits to the public by, among other things, preventing and reducing violence, reducing unnecessary litigation and reducing litigants' costs. In order to effectively promote and replicate these programs, rigorous, statistically valid evaluations are needed to accurately capture the full benefits of these programs.

Recommendation No. 15

Reduce circuit court lease funding to reflect the first year phase-in cap.

JUDICIARY RESPONSE:

The Judiciary concurs with this recommendation.

Recommendation No. 16

Deny 19 new positions and 8 contractual conversions for circuit court clerk of the court.

JUDICIARY RESPONSE:

The Judiciary strongly opposes this recommendation as reflected in our response to Issue No. 2.

Recommendation No. 17

Reduce funds for Major Information Technology Project development – AOC Back Office Systems.

JUDICIARY RESPONSE:

The Judiciary concurs with this recommendation, but stresses the urgency to replace the stand-alone proprietary systems that now comprise the “administrative backbone” of the Judiciary’s human resources, procurement, and finance functions.